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Comments by the Government of the Syrian Arab Republic on the concluding observations of the Human Rights Committee

1. We wish to reply to your observations, in sequence, as follows:

Paragraphs 1 to 4

2. We welcome the content of the observations under the heading "Positive aspects" and wish to emphasize that the Government of the Syrian Arab Republic has always paid special attention to human rights and shares the concern of the Human Rights Committee of the United Nations in this field.

Paragraph 5

3. In response to the content of paragraph 5 of the Committee's observations, we wish to reaffirm that the laws in Syria, which always reflect the provisions of the Constitution, take the articles of the Covenant into consideration and in no way tend to restrict the scope of application of the articles of the Constitution or the Covenant, as will be explained in detail below.

Paragraphs 6 and 7

4. Paragraphs 6 and 7 of the Committee's observations refer to the fact that the Emergency Act is still in force in Syria. In this connection, we wish to point out that article 4 of the Covenant permits the proclamation of a state of emergency in time of public emergency which threatens the life of the nation. We would ask the distinguished members of the Committee whether there could be a state of emergency which threatened the life of the nation to a greater extent than the situation that Israel is creating in the region. In fact, Israel is occupying the Syrian Golan and part of southern Lebanon, is attacking, killing and displacing Palestinians and

is constantly committing acts of hostility against Lebanon, as attested by the "grapes of wrath" and other brutal acts of aggression. Israel's recent attack during the night of 15 April 2001 (during the Easter holiday on the day when Christians celebrate Christ's resurrection) on a Syrian radar station in the Bekaa region of Lebanon in which dozens of its personnel were killed or wounded illustrates the state of anxiety and tension that Israel is seeking to create in the region, and particularly in Syria. Since he came to power, the threats that the present Prime Minister of Israel has made against Syria and other States of the region are a clear indication of Israel's intention to keep the entire region on the brink of the abyss and to create an atmosphere conducive to maintenance of the existing state of war.

5. How can the Human Rights Committee call for the lifting of the state of emergency while we are faced with these exceptional circumstances?

6. Nevertheless, it should be noted that, for many years, the Emergency Act has been applied only to a very limited extent in Syria and the martial law decrees filed with the Ministry of the Interior have become rare. The persons who are detained under the Emergency Act are those who commit serious offences such as murder, sabotage, armed robbery, the establishment of criminal gangs and transnational drug smuggling. The purpose of such detention, which is limited to a maximum of seven days, is to enable the security authorities to mobilize their resources in order to arrest the criminals and bring them to justice.

7. At all events, the decisions of the martial law administrator are administrative decisions that can be challenged before the administrative courts which, on the basis of appeals lodged by aggrieved citizens, have annulled a number of those decisions.

Paragraph 8

8. Paragraph 8 of the Committee's observations refers to the imposition of the death penalty in Syria, in connection with which the Committee requests statistics concerning the number of executions carried out since 1990.

9. We wish to emphasize that the death penalty is virtually in abeyance in Syria where it is enforced only on rare occasions, the last being in 1987. Although the criminal courts pass death sentences, these are soon commuted to penalties of imprisonment by the Court of Cassation (the highest court in Syria) or by the President of the Republic on the basis of a recommendation by the Board of Pardons at the Ministry of Justice. The reason for our failure to provide the Committee with statistics on the death penalty is that this penalty has not been enforced in Syria since 1987 and, consequently, the statistical departments have no record of any executions since that date.

10. If the Committee is referring to cases of extrajudicial execution, we can confirm that there are no such cases. The information that the Committee has received concerning confessions obtained in an illegal manner is false and tendentious information disseminated by bodies hostile to Syria which are seeking to cause harm and confusion.

Paragraph 9

11. With regard to paragraph 9, in which the Committee recommends that Syria should comply with article 6, paragraph 2, of the Covenant which stipulates that sentence of death may be imposed only for the most serious crimes, we wish to point out that all the crimes mentioned in paragraph 60 of the report of the Syrian Arab Republic are extremely grave and serious crimes.

Paragraph 10

12. There are no cases of disappearance of Syrian or Lebanese nationals in Syria. The Lebanese nationals who have committed security offences in Syrian territory have been handed over to the Lebanese Government. The Government of the Syrian Arab Republic is eager to prevent any violations, the perpetrators of which would be called to account in accordance with the Constitution and laws and in a manner consistent with the International Covenant on Civil and Political Rights.

Paragraph 11

13. The Syrian Government has not prohibited any non-governmental organization from monitoring the human rights situation in Syria. There is nothing to prevent any non-governmental organization from obtaining authorization to do so in accordance with the laws and regulations in force.

Paragraph 12

14. There is no truth to the allegations that the Committee has heard concerning torture in Tadmur prison. The Syrian Government is willing to investigate any specific individual incident and to call to account the persons responsible therefor.

Paragraph 13

15. The Syrian Government is constantly monitoring the measures taken to improve conditions of detention and, in particular, to ensure the availability of adequate and timely medical care for the inmates of all prisons, including military prisons. Such care, including medication, surgical operations and hospital expenses, is provided free of charge. We are amazed at the false information, contained in paragraph 13 of your observations, concerning military and other prisons in Syria.

Paragraph 14

16. Under the Code of Criminal Procedure pre-trial detention (also known as temporary or preventive detention) is subject to basic safeguards. Articles 424 and 425 stipulate that no one may be detained without being duly charged in accordance with the legal procedures. Article 104 further stipulates that the examining magistrate has an obligation to promptly

question an accused person who has been summoned to appear before him and any suspect who is arrested under the terms of a warrant must be questioned within 24 hours from the time of his arrest.

17. If the examining magistrate decides to order the remand in custody of an accused person, the latter has the right to request his release and, if this request is rejected by the examining magistrate, the accused person is entitled to lodge an appeal, within 24 hours, against the decision to reject his request.

18. Anyone who violates the provisions of the Code concerning temporary detention commits the offence of arbitrary detention, which is punishable under article 358 of the Penal Code.

19. The Code of Criminal Procedure makes explicit provision for all the guarantees needed to facilitate access by accused persons to legal counsel. Under the terms of article 69 of the Code, the examining magistrate has an obligation to inform the accused person of his right to refuse to answer questions except in the presence of his lawyer and, if he requests a lawyer, the examining magistrate must call upon the President of the Bar Association to appoint one for him. Proceedings cannot be conducted before a criminal court unless the accused is accompanied by a lawyer and, if the accused is unable to appoint one, the president of the court must appoint one for him. In all cases, the lawyer so appointed acts for the accused free of charge.

20. The accused has the right to contact his lawyer at any time and to meet and communicate with him in private without surveillance by the guards.

Paragraph 15

21. In Syria judges are appointed, dismissed and disciplined in accordance with the rules laid down in the Constitution and the law which, in this connection, contain strict safeguards comparable to those in force in any other country of the world. Judges enjoy immunity from dismissal and transfer within the limits laid down in articles 92 and 93 of the Judicial Authority Act. Any information to the contrary which might have been received by your distinguished Committee is pure calumny.

22. The fact that judges of the Supreme Constitutional Court are appointed only for a short four-year term in no way implies that they are subject to pressure or dependent on the executive authority. This is a statutory and impartially chosen term.

23. In this connection, it should be noted that article 142 of the Constitution stipulates that the members of the Supreme Constitutional Court can be removed therefrom only in accordance with the provisions of the law.

24. Moreover, we wish to draw the attention of the Human Rights Committee to the fact that, since the formation of the first Supreme Constitutional Court in 1973, its judges have remained in office until the termination of their mandate through death or retirement and, during the last 28 years, the President of the Republic has never refused to renew the term of office of any of the Court's judges.

Paragraph 16

25. The State Security Court fully applies the Penal Code and the Code of Criminal Procedure. Its hearings are held in public, pleas are made verbally and the rights of defence are safeguarded, including the appointment of a lawyer to defend the accused and the latter's right to contact his lawyer without any surveillance. Article 7 of the Act establishing that Court makes explicit provision for the right of defence.

26. The allegations to the effect that the public are not permitted to attend the hearings of that Court and that the Court has rejected complaints of torture are false, since the State Security Court fully respects the articles of the Covenant and fully applies the Code of Criminal Procedure.

27. With regard to the observation, contained in paragraph 16, to the effect that State Security Court decisions are not subject to appeal, we wish to make it clear that article 8 of the Act establishing the Higher State Security Court stipulates that the decisions handed down by this Court are not enforceable until they have been ratified by a decree promulgated by the President of the Republic, who has the right to annul a decision and order a retrial or closure of the case or reduce or commute the penalty. Closure of the case is equivalent to a full pardon. Such Presidential Decrees are final and not subject to any form of appeal or review.

28. For the persons convicted by the Higher State Security Court, this provision empowering the President of the Republic to review its decisions clearly constitutes a major safeguard which transcends a mere stipulation designating its decisions as subject to appeal.

Paragraph 17

29. There is no truth to the allegations contained in paragraph 17 to the effect that the military courts do not respect the guarantees laid down in the Covenant, since these courts have an obligation to apply the Act of 1950 promulgating the Military Penal Code and Code of Judicial Procedure which embodies all the guarantees laid down in the Covenant. The military courts also strictly apply the ordinary Penal Code and Code of Criminal Procedure and all the lawyers who plead before the military courts in Syria can testify to the fair, equitable and impartial nature of their decisions and their respect for the rights of the accused and for the laws that they apply.

30. The military judiciary consists of the following bodies:

(a) The military courts consisting of a single judge, which are competent to hear contraventions and misdemeanours (arts. 1 and 3 of the Military Penal Code and Code of Judicial Procedure);

(b) The military standing courts, consisting of a president and two members, which are competent to hear cases involving felonies, as well as actions brought against officers even if the offence of which they are accused falls within the jurisdiction of a single judge (arts. 1, 3, 4 and 34 of the Military Penal Code and Code of Judicial Procedure);

(c) The military investigating judge, who is responsible for investigating cases involving felonies and major misdemeanours (arts. 16 and 24 of the Military Penal Code and Code of Judicial Procedure);

(d) The Military Court of Cassation, one of the criminal divisions of the ordinary Court of Cassation (the highest court in Syria) in which one of the justices is replaced by an officer holding a military rank not lower than colonel (art. 31 of the Military Penal Code and Code of Judicial Procedure). The Military Court of Cassation hears appeals against judgements and decisions handed down by the military courts and the military investigating judges (art. 32);

(e) The Judge Advocate General and his assistants, who exercise all the powers vested in members of the Department of Public Prosecutions under the terms of the Code of Criminal Procedure which is applied by the ordinary courts (arts. 16-22 of the Military Penal Code and Code of Judicial Procedure).

31. The procedures followed by the military courts, the military investigating judge and the Military Court of Cassation are the same as those applied by the ordinary courts and specified in the Code of Criminal Procedure, as explicitly stipulated in articles 13, 17, 23, 33 and 69 of the Military Penal Code and Code of Judicial Procedure.

32. Article 15 of the said Code stipulates as follows:

> "1. An objection may be lodged against decisions handed down in absentia by military standing courts or single judges within a period of five days beginning on the day following the date of notification of the decision.
>
> 2. All decisions handed down by these courts shall be subject to appeal in cassation unless otherwise explicitly stipulated."

33. In all cases, even when a decision is explicitly designated as not subject to appeal, article 81 empowers the Minister of Defence to lodge an appeal against the decision with the Court of Cassation. Article 15, paragraph 4, stipulates that decisions entailing the death penalty cannot be explicitly designated as not subject to appeal since, in all cases, such judgements are subject to appeal in cassation.

Paragraphs 18 and 20

34. The Personal Status Act promulgated in 1953 and amended by Act No. 34 of 1975 guarantees full equality between the spouses, before and during marriage and upon its dissolution, in a manner consistent with article 2, paragraphs 1 and 3, and article 26 of the Covenant. The statement concerning the existence of discriminatory elements between the spouses is exaggerated and unrealistic. Since the promulgation of the amendments in Act No. 34 of 1975, young women have the right to accept or refuse marriage, authority within the family is shared between the spouses and either spouse can institute divorce proceedings in view of the fact that anyone wishing to divorce merely has to apply to the courts to obtain a separation order and, even if a husband repudiates his wife unilaterally, this divorce does not take effect until the matter has been brought before the courts and a divorce decree has been issued.

35. The marriageable age to which the Committee referred in paragraph 20 of its observations should be viewed in the light of the following two facts:

(a) Marriage at the age of 15 for boys and 13 for girls requires the consent not only of the father but also of the judge. The status of this judge, who is the highest ranking Shariah judge (Chief Justice of the Shariah Courts) in Syria, unquestionably ensures that the physical and mental condition of the boy or girl is verified;

(b) In Islam, marriage is linked to the age of physical puberty, which differs from one geographical environment to another. In countries with a hot climate girls sometimes reach puberty at nine years of age, in contrast to countries with a colder climate in which puberty is attained at a much later age.

36. Although puberty is a clear indication of both physical and mental maturity, as already mentioned marriage at this age can take place only after the highest ranking Shariah judge has studied the physical and mental condition of the boy or girl in the light of medical reports.

37. At all events, it should be noted that the marriage of a girl between the ages of 13 and 17 is an exceptional and rare occurrence.

Paragraph 19

38. In response to the Committee's request in paragraph 19, we will be providing you, in our next report, with full information on the employment, remuneration and level of responsibility of women in the public and private sectors. However, we wish to draw the Committee's attention to the fact that, in Syria, women enjoy the same constitutional, legal, political and social rights as men. For example, they have the right to vote in public elections and to stand as candidates for membership of all councils without exception. Women have an unrestricted right to work, for which they receive remuneration equivalent to that paid to men for the same type of work. The current policy of the Government of the Syrian Arab Republic in regard to women is to take all the necessary measures to promote their role in society and the State.

Paragraph 21

39. The Syrian authorities and the Syrian embassies abroad are taking all the necessary measures for the renewal of Syrian passports when they expire. Syrian embassies do not prevent any Syrian citizen from renewing his passport. However, some Syrians residing abroad have administrative problems relating to military service, financial or administrative obligations towards the State or liabilities to others and are required to regularize their situation vis-à-vis the competent administrative authorities in Syria. This does not prevent the embassy from taking care of them and providing them with the documents needed for their continued residence in the foreign country in which they are living.

40. The Ministry of the Interior promulgated Ordinance No. 1016 of 13 November 1999, which considerably facilitates the procedures for the travel, departure and return of Syrian citizens and the issue of passports and exit visas. The Ministry of the Interior is currently studying further measures to facilitate the travel of citizens in future.

41. However, it should be clearly understood that the purpose of the exit visas needed by some citizens is not to restrict their freedom but solely to ensure that criminals do not flee the country and that persons with financial or administrative obligations do not evade the fulfilment of those obligations.

Paragraph 22

42. Decisions to expel aliens from Syria are considered very carefully by the Ministry of the Interior. No alien is expelled unless, following a thorough study of his case, it has been fully ascertained that his presence in Syria would constitute a source of danger or concern for the country. As a safeguard for aliens, the authority to issue expulsion orders is vested in the Minister of the Interior in person.

43. Nevertheless, the law offers aliens two channels through which they can appeal or protest against, and request annulment of, such orders issued by the Minister of the Interior:

(a) The administrative channel, to which an alien can resort in order to submit a complaint to the Minister of the Interior through one of our embassies abroad;

(b) The judicial channel, to which an alien can resort, after his complaint has been rejected by the Minister of the Interior, in order to bring a legal action before the Council of State for annulment of an expulsion order issued by the Minister of the Interior.

Paragraph 23

44. Our Mission has already informed you that Mr. Nizar Nayyuf has been released and now enjoys full freedom of expression and action.

45. We are surprised at the Committee's statement to the effect that the activities of human rights defenders and of journalists are restricted, since these persons enjoy full freedom, within the limits of the laws and regulations in force, to publish whatever they wish without any restrictions.

Paragraph 24

46. We have already confirmed that the promulgation of Legislative Decree No. 6 of 7 January 1965, concerning opposition to the aims of the revolution, was necessitated by exceptional circumstances. That Legislative Decree was promulgated in 1965 in conjunction with some socialist legislation in view of the fear that an armed movement might be established to resist that legislation. However, for reasons best known to the judiciary, that Legislative Decree has not been applied since that time.

47. Accordingly, there is no justification for any concern regarding the existence of that Legislative Decree, the allegations that the Committee has received in this connection being totally unfounded.

Paragraph 25

48. There are no exceptional restrictions on the holding of public meetings and demonstrations in Syria. The conditions for the authorization of public assemblies are the usual conditions laid down in all countries of the world, namely that the persons wishing to hold a meeting or demonstration must request authorization from the competent authorities in an application specifying the location, time and purposes of the meeting or demonstration and the names of its organizers. This application is studied in the light of the requirements of public order, public safety, public health and morals and the rights of others. The Syrian authorities have never rejected an application that was in conformity with the laws and regulations in force.

Paragraph 26

49. The proposed law on political parties will unquestionably be compatible with the provisions of the Covenant and will dispel the concern expressed by the Committee in paragraph 26.

Paragraph 27

50. With regard to paragraph 27, the Kurds who enter Syria from neighbouring countries are shown special concern by the Syrian authorities, who endeavour to solve their humanitarian, administrative and practical problems. Special concern is also shown for Kurdish children born in Syria, who are treated in the same way as Syrian citizens, without any discrimination or preference. The Syrian authorities are making a very careful study of the situation of these Kurds, taking into account all the circumstances that induce them to enter and live in Syria.

Paragraph 28

51. We wish to assure the Committee that the second periodic report and the Committee's observations will be disseminated widely in Syria.

Paragraph 29

52. Although, in this reply, we have answered all the questions raised by the Committee in paragraph 29 of its observations, we wish to assure the Committee that the Syrian Mission to the United Nations will keep it abreast of any new developments relating to the matters that are giving rise to its concern. We also confirm that the Mission will continue to cooperate with the Committee in an objective manner conducive to the promotion of human rights.